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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)

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FURTHER COMMENT ON SPECIFIC QUESTIONS FROM COMMON CARRIER
BUREAU
BY
OAKLAND UNIFIED SCHOOL DISTRICT

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SUMMARY OF FURTHER COMMENT

The Oakland Unified School District has provided these Further Comments to the specific questions asked by the Common Carrier Bureau in the Schools, Libraries, Health Care section.

Question #

6. School discounts should apply to all universal services providing access, switching and features on the public switched network.
7. Inside wiring and other internal connections are ineligible for discounts.
8. Sections 706 and 708 in no way should be considered by the joint Board as a means of providing schools, libraries and health providers advanced telecommunications services.
9. The Oakland Unified School District proposes a method of permitting telecommunication services providers to compete for the right to provide schools, libraries and health care providers with discount services and minimize the demand upon the universal fund.
10. The prohibition on resale by schools should allow schools to enter into consortiums with other community groups and facilitate community networks by allowing the pro rata share of telecommunications costs to be distributed among all participants. The prohibition against profit making should be maintained.
11. When discounts are applied to services for educational or community-based consortiums, the costs for telecommunication services are bundled together in a way that it is not feasible to separate out the actual school or educational usage.
12. Discounts should not be directed to states in block grants.
13. Discounts should not take the form of direct billing credits. Neither of these methods accomplish the type of "value" infusion into telecommunications required to convert it from a monopoly dominated by a few into an industry open to many and able to provide jobs to our students.

15. ~~The least~~ burdensome requirement for *bona fide* requests is that schools be certified by the States and that telecommunications services be provided on the "total school" principle.
16. The base service prices to which discounts for schools and libraries are applied should be a rate established through a competitively-bid contract in which schools and libraries participate.
17. With the implementation of the Oakland proposal, institutions receiving special rates would have a choice between their special rates and the new discount rates. This freedom of choice is consistent with moving the industry into a competitive environment.
18. In California, Pacific Bell has an educational tariff for the ISDN product; however, ISDN is a product that has not received the acceptance in the marketplace and is generally considered inferior. In a monopoly environment, discount services often mean inferior services.
22. The Oakland proposal anticipates providing discounts to all three types of users; however, there is a real need for rural health care providers to receive special attention.
23. Any cost estimate which is not based upon a competitive bidding process is one which supports the current monopolistic thinking. The only true estimate is one based upon the reality of competitive bidding.

COMMENT ON SPECIFIC QUESTIONS IN UNIVERSAL SERVICE NOTICE OF
PROPOSED RULEMAKING FROM COMMON CARRIER BUREAU

Question #

6. Should the services or functionalities eligible for discounts be specifically limited and identified or should the discount apply to all available services?

The Oakland Unified School District believes that the 1996 Telecommunications Act provides for discounts on all universal services utilized by schools. These universal services should also include new products and service enhancements not presently available. The District defines universal service in terms of access to the public switched network, switching within the public switched network and features utilized on the public switched network. School discounts should apply to all services.

7. Does Section 254(h) contemplate that inside wiring or other internal connections to classrooms may be eligible for universal service support of telecommunications services provided schools and libraries? If so, what is the estimated cost of the inside wiring and other internal connections?

In its Comments, the District did not include inside wiring or other internal connections as services eligible for universal support.

8. To what extent should the provisions of Section 706 and 708 be considered by the Joint Board and be relied upon to provide advanced services to schools, libraries and health providers?

The District does not believe that the provisions of Sections 706 and 708 should be considered by the Joint Board as measures providing advanced services to schools, libraries and health providers. A careful reading of the law, itself, does not permit any interpretation that suggests that Sections 706 and 708 were meant to provide schools, libraries and health care providers access with existing advanced telecommunications services.

The provisions of Section 706 invokes the assistance of the Commission (F.C.C.) and State commissions (P.U.C.s) in encouraging the deployment of advanced telecommunications capability by removing "barriers to infrastructure investment"¹. Congress intended that telecommunications service providers, especially new entrants, utilize Section 706 in discussions with various regulatory agencies regarding the deployment of advanced technologies which could serve communities, which are currently not being served by existing and incumbent telecommunications carriers. This section states that all possible assistance should be rendered to the willing providers of advanced services by government regulatory agencies. This section notes that regulation should be especially lenient where advanced services are required by elementary and secondary schools. Consistent with Congressional intent to infuse competition in the industry, Section 706 is an attempt to protect new entrants from intervention by incumbents telecommunications carriers whose objections might be based on a desire to maintain monopolistic protections afforded by existing regulations.

Section 708 creates a National Education Technology Funding Corporation which among other activities will "leverage resources and stimulate private investment in education technology infrastructure". This section designates which State education technology agencies are empowered to receive loans, grants or other forms of assistance from the Corporation and establishes criteria for encouraging a Federal/ State partnership in the deployment of educational technology². The

¹ Telecommunications Act of 1996, Title VII, Sec. 706(a)

² IBID. Section 708(a)(1)(C)

District believes that Congress intended Section 708 as a conduit for federal assistance to state and local education. This federal assistance will include technology-based learning tools, technical expertise as well as financial resources. This section does not even mention 'advanced services' in the manner discussed by the Act in Section 254.

The law specifically addresses the provision of advanced service under Section 254 UNIVERSAL SERVICE, subsection (b) UNIVERSAL SERVICE PRINCIPLES, paragraph (6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES³. This section of the Act directs our attention neither to Sections 706 nor 708. Rather, it states that schools "...should have access to advanced telecommunications services as described in subsection (h)."⁴

In subsection (h) paragraph 1(B), the law states: "All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the *definition of universal service under subsection (c) (3)*, provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties."⁵ In subsection (c) (3) the law states that: "In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services or such support mechanisms for schools, libraries, and health care providers for purposes of subsection (h) "⁶.

Congress intended that schools receive discounts from telecommunications providers for advanced telecommunications services. Advanced telecommunication services are described in the universal services section where it was intended that these advanced telecommunications services be provided to schools, libraries and health care providers at a discount. Congress intended that the F.C.C. and the P.U.C.s labor under no ambiguity with regard to Sections 706 and 708.

In addition, Congress went even further to state that under certain conditions the Commission might require a telecommunications carrier to connect its advanced services network directly to all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries, *gratis*.⁷

³ IBID. Section 254(b)(6)

⁴ IBID.

⁵ IBID. Section 254(h) (1)(B)

⁶ IBID. Section 254(c) (3)

⁷ IBID. Section 254(h) (2)

9. How can universal service support for schools, libraries, and health care providers be structured to promote competition?

The Oakland Unified School District Proposal

- I. A contract agency should be established by each State Public Utilities Commission. This agency could be a part of the State Public Utilities Commission or an actual independent body similar to the nonprofit organizations established in the Act.
- II. The contract agency would be empowered to issue a Request For Proposal (RFP) to all telecommunications service providers interested in providing discounted universal and advanced services to schools, libraries and health care providers within the jurisdiction of the State PUC.
- III. The contract agency would designate the service categories up for bid and permit service providers to bid on any and all service categories.
- IV. The contract agency would designate applicable geographic service areas. The total number of service areas must cover the entire state. Examples of geographic service areas could be:
 - a single geographic service area covering the entire state;
 - geographic service areas coterminous with existing LATAs within jurisdiction of the PUC; or
 - specific geographic service areas designated as rural or urban, high cost or low-cost.
- V. Service providers responding to the RFP should be permitted to bid on any and all service categories.
- VI. In the bids submitted by the service providers there must be three cost items:
 - the basic cost for providing their universal and advanced services;
 - the discount cost offered to schools and libraries for each service category; and
 - the cost subsidy required by the service provider from the universal fund to fund the discounted services.
- VII. If there are geographic areas where no service provider makes a bid to provide service, the contract agency will issue another RFP permitting the winning bidder to qualify for high cost or low income subsidies from the universal fund.
- VIII. The contracting agency could avoid the problem of lack of participation in high cost areas through a careful mapping of the geographic service areas and combining rural/urban and high income/low income locales. For example, LATA 1 in California not only includes the very dense urban San Francisco-Oakland Metropolitan Area, but the rural Mendocino County as well.
- IX. Interexchange access should be unbundled from the local loop and no universal fund subsidies be allowed for interexchange access. An exception to this prohibition would be in the area of rural subsidies for health care

providers. Furthermore, universal fund supports for lifeline services should be limited to local access.

- X. It is proposed that each State PUC establish a universal service advisory council composed of fund recipients, contributors, state regulators and consumer groups to insure the neutrality of the contract agency and to provide a forum for airing the concerns of all parties.
 - XI. The award of a contract for the provision of discount services will be made to the lowest responsible bidder. The contract agency will evaluate the bid responses and make its recommendations to the universal service advisory committee. The contract agency will be responsible for the administration of the award. The universal service advisory committee will provide administrative oversight.
10. Should the resale prohibitions in Section 254(h)(3) be construed to prohibit only the resale of services to the public for profit, and should it be construed so as to permit end user cost based fees for services? Would construction in this manner facilitate community networks and/or aggregation of purchasing power?

In our original comments, the Oakland Unified School District suggested that the resale prohibition be interpreted to prevent profit making on discounted or free telecommunications services, but should not prohibit the recovery of end user based fees. The Commission will encourage partnerships between schools and their communities by allowing this more liberal interpretation. Currently, the Oakland Unified School District is involved in a major educational consortium, called SMARTnet. Organized to maximize internet access for Oakland students, this consortium includes the Chabot Observatory and Science Center which received a California Research and Education Network (CalREN) grant to build a Science, Math and Real Technology Network (SMARTnet). SMARTnet established Internet connections between the Chabot Observatory and Science Center and eight community participants, such as the Boys and Girls Club of Oakland, the Oakland Chinese Community Council, Spanish Speaking Unity Council and the Indian Nations Council. In addition, SMARTnet has such collaborators as KDOL-TV, Lawrence Berkeley Laboratory, Oakland Public Library, Sandia National Laboratories and the UC Berkeley Mechanical Engineering Department. By reaching students in after-school, evening, weekend and other non-traditional school hours, this project enhances science education.

As the District begins to experience cost increases from its ISP vendor because of increased community access to the internet, the District must decide whether to share the additional access costs with the community groups in the educational consortium or to cut them off completely. If discounts were provided on internet access, the recommended interpretation of this prohibition would permit the District to retain its ability to charge each noneligible institution its pro rata share of the

internet access charges. Otherwise, the Act's prohibition could cause the District to terminate its relationship with the Boys and Girls Club and other SMARTnet community groups.

11. If the answer to the first question in number 10 is "yes", should the discounts be available only for the traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts?

No. If discounts were offered only for traffic or network usage attributable to the educational entities that qualify for the Section 254 discounts, the greater level of complexity and accountability would thwart the benefits of discounts. In the previous example, how would the District determine how much each consortium partner is using of the internet access? The District needs the flexibility to allocate costs on some other basis than usage.

12. Should discounts be directed to the states in the form of block grants?

No. The District proposal relies on a competitive marketplace. Block grants would add an unnecessary level of accounting and reporting requirements. It was the clear intent of Congress to permit market conditions to provide regulatory controls. The value of Oakland's proposal is that the process of providing discounts to schools, libraries and health care providers is consistent with the goal of changing the telecommunications industry from a monopoly, where only a few companies participate, into an open, competitive economy which supports new entrants and provides jobs.

13. Should discounts for schools, libraries, and health care providers take the form of direct billing credits for telecommunications services provided eligible institutions?

No. Again, the District's proposal relies on developing a competitive marketplace. Provision of billing credits supports the existing monopoly. Such a system merely transfers public funds into the coffers of incumbent telecommunications providers. A competitive marketplace relies upon the idea of infusing "value" into an environment in order to stimulate demand and generate industry. "Value" comes from human energy, activity and creativity. Transfers of credits do not inspire the great infusion of value required to transform this industry into a vital marketplace.

15. What is the least administratively burdensome requirement that could be used to ensure that requests for supported telecommunications services are bona fide requests within the intent of section 254(h)?

The least administratively burdensome requirement for schools is (a) that schools be certified by the State and (b) that telecommunications services be provided on the "total school" principle.

One method of certifying institutions as elementary and secondary schools as defined in Section 254(h)(5)(A) of the Act would be to accept whatever method the states use to identify K-12 public schools. In California, the State Department of Education certifies elementary and secondary schools and issues a State CDE Code number to each school site.

In addition, it is important to the schools that the principle be established that requests for universal and advanced services for any activity undertaken by school administrators, directors, managers and all other school and school district personnel be considered a "bona fide request for educational purposes". The principle of total school service is fundamental to the establishment of those support mechanisms required by the Act. The MIS Department at Oakland Unified School District uses a variety of advanced services in its network. This one network provides students in school site computer labs with internet access, high school counselors with access to student records, and attendance clerks with reporting procedures and school files. Using a centralized network Food Service personnel determine a student's eligibility for free or reduced rate meals. Universal services such as office telephones are used by parents to get access to teachers, by teachers' aides to arrange field trips and by gym teachers to arrange intercollegiate athletic activities. No arbitrary division can be made between the uses of universal and advanced services and neither can there be an arbitrary division between educational and administrative use. When a Hispanic parent requiring bilingual services calls the district office and speaks to a person in Spanish about the education of that parent's child, that universal service is being used for an educational purpose. It is of the utmost concern that the implementation of rules affecting a "bona fide request for educational purposes" be guided by this principle of total school service. Educational discounts for universal as well as advanced services must be available to all school and district site personnel based upon the principle that all school activity results in creating a positive learning environment for our children.

16. What should be the base service prices to which discounts for schools and libraries are applied: (a) total service long-run incremental cost; (b) short-run incremental costs; (c) best commercially-available rate; (d) tariffed rate; (e) rate established through a competitively-bid contract in which schools and libraries participate; (f) lowest of some group of the above; or (g) some other benchmark? How could the best commercially-available rate be ascertained, in light of the fact that many such rates may be established pursuant to confidential contract arrangements?

The base service prices to which discounts for schools and libraries are applied should be a rate established through a competitively-bid contract in which schools and libraries participate. The Oakland Unified School District proposal outlined in question # 9 is an example of the manner that these rates might be determined. Participation in the process by schools and libraries in our proposal takes place at

the universal fund advisory council level. The contract agency should establish maximum rates for all services at the existing tariff level.

We wish to make a side comment regarding the assumption that the "best commercially available rate" being confidential. In California, the C.P.U.C. approves all telecommunication contracts. Since the P.U.C. is a public agency, there can be no contract for the "best commercially available rates" that is not in the public domain and publicly accessible.

17. How should discounts be applied, if at all, for schools and libraries and rural health care providers that are currently receiving special rates?

The Oakland Unified School District proposal would apply even to those institutions which receive special rates. Once a discount telecommunications service provider is chosen the discount rates could be compared to the existing special rates and the affected institution could choose. Once again this process would facilitate competition and openness.

18. What states have established discount programs for telecommunications services provided to schools, libraries, and health care providers? Describe the programs including measurable outcomes and associated costs.

In California, Pacific Bell initiated an ISDN discount program to the schools. This program originated as a program to give each school an ISDN line, *gratis*, for a year. The program evolved into one which provided an educational discount for as many ISDN lines as were required by any school. The problem with the program was that it was more of a sales promotion than a discount program. ISDN did not enjoy very much favor in the marketplace although the LEC found it to be a highly profitable service. ISDN is a product which continues to have installation and service problems. It is a finicky service with loop length limitations and restrictions. This is a negative example of the type of discount program required by the schools.

The schools do not need old, unreliable technology. So many believe that providing schools with cast off computers or obsolete key systems or rehabilitated PBXs, the educational process is benefited. The schools need the same technology that business and industry is using. We in Oakland are equipping our students with the skills required in the 21st century not the 19th.

22. Should separate funding mechanisms be established for schools and libraries and for rural health care providers?

The Oakland Unified School District believes that its proposal would provide the type of discounts required by all three special classes of users. However, the District understands how health care providers believe that they have special needs that

would not be addressed if joined with schools and libraries. In particular, rural health care providers require special long distance access with large amounts of bandwidth for the type of diagnostic applications which are becoming increasingly valuable.

23. Are the cost estimates contained in the McKinsey Report and NII Kickstart initiative an accurate funding estimate for the discount provisions for schools and libraries, assuming that tariffed rates are used as the base prices?

The Oakland Unified School District does not believe the estimates contained in the above mentioned reports are accurate estimates of the funding discounts. These initiatives rely on the old monopolistic thinking which rewards cartels rather than enterprise. If the intent of Congress was to instill competition where there was monopoly, the implementation of this Act cannot be guided by the projection of those who wish to maintain the present system of subsidies for incumbents. Actual costs will be demonstrated when each company must bid from scratch. In its RFP soliciting bids for a private telephone network, the Oakland Unified School District is saving over \$600,000 on a three year contract over its present telecommunications service from the LEC. The District utilized a state contract for its pay telephone service and reduced its annual costs by \$68,000. The Oakland Unified School District believes that the actual cost estimates will only be derived in a competitive rather than a regulatory environment.